

REMARKS

In the Office Action dated May 15, 2007, claims 1-20 are pending. The Examiner has made the restriction requirement final. Claims 1-16, 19 and 20 are withdrawn from consideration as directed to non-elected subject matter.¹ Claims 17 and 18 are considered on the merits. Applicants reserve the right to file one or more divisional applications directed to the non-elected subject matter. The disclosure is objected to for certain informalities. Claims 17 and 18 are rejected under 35 U.S.C. §112, first paragraph, as allegedly lacking enabling support. Claims 17 and 18 are rejected under 35 U.S.C. §112, first paragraph, as allegedly failing to comply with the written description requirement. Claim 18 is rejected under 35 U.S.C. §102(b) as allegedly anticipated by GenBank accession number AA101561, October 1996. Claims 17 and 18 are rejected as allegedly unpatentable over claims 1 of U.S. Patent No. 6,699,688 on the grounds of non-statutory double patenting.

This Response addresses each of the Examiner's objections and rejections. Applicants therefore respectfully submit that the present application is in condition for allowance. Favorable consideration of all pending claims is therefore respectfully requested.

The specification is objected to for certain informalities as containing an embedded hyperlink and/or other form of browser-executable code. The Examiner refers to page 39 of the specification. The Examiner requires Applicants to delete the embedded hyperlink and/or other form of browser-executable code.

In response, Applicants have amended the paragraph beginning on page 39, line 3. The paragraph, as amended, no longer contains any embedded hyperlinks and/or other forms of

¹ In the Office Action Summary, the Examiner states that claims "1-17, 19 and 20" are withdrawn from consideration. Since elected Group V contains claims 17-18 and the Examiner has considered claims 17-18 on the merits, Applicants believe that the Examiner's reference to claims "1-17" as withdrawn is a typographical error and claims "1-16" were intended.

browser-executable code. As such, the objection to the specification is obviated and withdrawal thereof is respectfully requested.

Claims 17 and 18 are rejected under 35 U.S.C. §112, first paragraph, as allegedly lacking enabling support. The Examiner acknowledges that the present application is enabling for a polynucleotide of SEQ ID NOS: 1 and 2, encoding a platelet F11 receptor, and for polynucleotides that differ from the polynucleotides of SEQ ID NOS: 1 or 2 due to the degeneracy of the genetic code but which encode a polypeptide of SEQ ID NOS: 3 or 4. However, the Examiner alleges that the present application does not provide enablement for sequences from other species, mutated sequences, allelic variants, or sequences that have a recited degree of identity.

Before addressing the merits of the Examiner's rejections, Applicants have canceled claim 17, without prejudice, and amended claim 18 in an effort to favorably advance prosecution. Applicants reserve the right to file one or more continuation applications to pursue the subject matter of claims 17-18 as originally presented.

Applicants respectfully submit that claim 18, as amended, is directed to a DNA oligomer that is capable of hybridizing under high stringency conditions to a nucleic acid molecule having a nucleotide sequence consisting of SEQ ID NO: 1, nucleotides 16-912 of SEQ ID NO:1, and nucleotides 97-912 of SEQ ID NO: 1. The high stringency conditions are well recognized by one skilled in the art and are exemplified by the specification, e.g., on page 28, lines 24-29. No new matter is introduced by amendment to claim 18.

Applicants respectfully submit that the present application discloses the sequence information for SEQ ID NO: 1. See the Sequence Listing. The present application also teaches specific primers derived from SEQ ID NO: 1. See, e.g., specification, on page 28, line 20 to page

29, line 11. It is routine for one skilled in the art to design and make a specific DNA oligo primers once the template sequence is known. Thus, Applicants respectfully submit that the present application provides sufficient description and guidance for one skilled to make and use the DNA oligomer as encompassed by claim 18, as amended, without undue experimentation.

The rejection with respect to claim 17 is moot in view of the cancellation of claim 17. Therefore, further in view of the amendment to claim 18 and the above arguments, the rejection of claims 17 and 18 under 35 U.S.C. §112, first paragraph, as allegedly lacking enabling support is overcome and withdrawal thereof is respectfully requested.

Claims 17 and 18 are rejected under 35 U.S.C. §112, first paragraph, as allegedly failing to comply with the written description requirement.

Applicants respectfully submit that as argued above, the present application discloses the sequence of SEQ ID NO: 1. See Sequence Listing. The present application also teaches specific primers derived from SEQ ID NO: 1. See, e.g., specification, on page 28, line 20 to page 29, line 11. Applicants respectfully submit that based on the disclosure of the specification, it is routine for one skilled in the art to design and make a specific DNA oligo primer based on the sequence information of SEQ ID NO: 1.

Therefore, in view of the cancellation of claim 17 and the amendment to claim 18, Applicants respectfully submit that the specification provides sufficient disclosure in such a way as to convey to one skilled in the relevant art that the inventors had possession of the claimed invention at the time the application was filed. As such, the rejection of claims 17 and 18 under 35 U.S.C. §112, first paragraph, as allegedly failing to comply with written description requirement is overcome and withdrawal thereof is respectfully requested.

Claim 18 is rejected under 35 U.S.C. §102(b) as allegedly anticipated by GenBank accession number AA101561, October 1996. The Examiner contends that GenBank accession number AA101561 discloses a DNA molecule (oligomer) that is 99.2% identical to SEQ ID NO: 2 over a region of 377 bases (see sequence alignment provided in parent application 09/397,243) and would thus hybridize to a polynucleotide of SEQ ID NO: 2 under highly stringent conditions.

Applicants respectfully submit that claim 18, as amended, no longer recites SEQ ID NO: 2 or its fragments. As such, the rejection of claim 18 under 35 U.S.C. §102(b) is moot and withdrawal thereof is respectfully requested.

Claims 17 and 18 are rejected as allegedly unpatentable over claims 1 of U.S. Patent No. 6,699,688. The Examiner raised this rejection on the ground of non-statutory double patenting. The Examiner alleges that the claims, if allowed, would improperly extend the "right to exclude" already granted in the parent. The Examiner alleges that claims 17-18 claim a broader genus (e.g. polynucleotides encoding polypeptides that are 90% identical to SEQ ID NOS: 3 or 4, and polynucleotides that hybridize to polynucleotides of SEQ ID NOS: 1 or 2) than that of U.S. Patent No. 6,699,688. The Examiner alleges that as a species claim (that of U.S. Patent No. 6,699,688) anticipates that of a genus claim (the instant claims) and issuance of the instant claims would result in an improper extension of the "right to exclude" already granted in the 6,699,688 patent.

Applicants observe that claim 1 of U.S. Patent No. 6,699,688 is not directed to a DNA oligomer. Thus, Applicants respectfully submit that the Examiner's allegation of extending right to exclude does not apply to claim 18.

The rejection with respect to claim 17 is moot in view of the cancellation of claim 17. Therefore, the rejection of claims 17 and 18 as allegedly unpatentable over claim 1 of U.S. Patent No. 6,699,688 is overcome and withdrawal thereof is respectfully requested.

In view of the foregoing amendments and remarks, it is firmly believed that the subject application is in condition for allowance, which action is earnestly solicited.

Respectfully submitted,

A handwritten signature in dark ink, appearing to read "Peter I. Bernstein", with a long horizontal stroke extending to the right.

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